NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 27, 2012

3:14 p.m.

REGULAR SESSION

SENATOR JOHN FLANAGAN, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FLANAGAN: The Senate will come to order.

I ask everyone present to please rise and recite the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT FLANAGAN: In the absence of clergy, I would respectfully ask everyone to bow their heads in a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT FLANAGAN: The reading of the Journal.

THE SECRETARY: In Senate, Monday, March 26th, the Senate met pursuant to adjournment. The Journal of Sunday, March 25th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FLANAGAN: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 21, Senator DeFrancisco moves to discharge, from the Committee on Local Government, Assembly Bill Number 9336 and substitute it for the identical Senate Bill Number 6471, Third Reading Calendar 449.

ACTING PRESIDENT FLANAGAN: Substitution ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause. The first one is a Senator Flanagan bill -- an excellent bill, I might add -- Senate 1883A.

I also request that we offer the following amendments to Calendar Number 316,

on page 12, which is Senate Print 4210, also an excellent bill, by Senator Farley.

ACTING PRESIDENT FLANAGAN: Senator DeFrancisco, if I may. On your first one, I just want to say so ordered.

And on the second one, the amendments are received, and the bill will maintain its status on the Third Reading Calendar.

SENATOR DeFRANCISCO: And in addition, on page 17 I offer the following amendments to Calendar Number 401, it's Senate Bill 6668, by Senator Lanza. It's a pretty good bill.

ACTING PRESIDENT FLANAGAN: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR DeFRANCISCO: And lastly, Mr. President, I wish you to call up Bill Number 6084A, by Senator Grisanti, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Calendar Number 193, by Senator Grisanti, Senate Print 6084A, an act to amend the Parks, Recreation and Historic Preservation Law.

SENATOR DeFRANCISCO: I now move to reconsider the vote by which this excellent bill was passed.

ACTING PRESIDENT FLANAGAN: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR DeFRANCISCO: I now offer the following amendments.

ACTING PRESIDENT FLANAGAN: The amendments are received.

SENATOR DeFRANCISCO: Thank you.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Mr. President, thank you.

At this time may we please adopt the Resolution Calendar, with the exception of Resolutions Number 3701, 3716, and 3747.

But before we adopt the Resolution Calendar, Mr. President, I believe that Senator

Serrano and Senator Parker would like to speak on a resolution that's on the calendar.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Libous.

Senator Serrano on the resolution.

SENATOR SERRANO: Thank you very much, Mr. President.

Senator Libous, thank you.

I'm here to talk about Earth Hour. Earth Hour is a global event that happens every year. This year it will be happening March 31st, between the hours of 8:30 and 9:30. And during that hour we ask people everywhere to turn off their lights just for one hour.

I've carried this resolution since 2008. Participation grows every single year. And like I said, it's a worldwide event. This resolution commemorates that, and it also encourages more participation.

Global treasures throughout the world, from the Sphinx in Egypt to the Empire State Building, will go dark for that one hour from 8:30 to 9:30.

And it will greatly reduce the carbon footprint across our globe. For example,

in 2007, in Sydney, Australia alone, the turning off lights for one hour during Earth Hour was the equivalent of reducing about 50,000 automobiles from the road.

Now, when we consider the high asthma rates in a place like the South Bronx or East Harlem, that kind of impact is truly significant.

And more importantly, it teaches our youngsters and our children that making small changes in the way that we consume in our society actually has a great effect on our environment.

So I thank all of my colleagues for their support of Earth Hour, and I look forward to the passage of this resolution today.

Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Serrano.

Senator Parker.

SENATOR PARKER: Thank you, Mr. President. I rise to speak on Resolution Number 3789.

And this resolution, Mr. President, honors the sacrifice and heroism of patriots who saw America fail her promise and knew she could

do better, who on March 7, 1965, through silent nonviolent protests, sought to redress grievances that impact the most basic right, the right to participate in our democracy.

A hundred years had passed since the Civil War and the passage of the 15th Amendment which granted the rights of citizens of the United States or by any state on account of race, color, or previous condition of servitude. Yet through the rise of poll taxes, literacy tests, and district manipulation, tactics including cracking, packing, and stacking, states disenfranchised and diluted the African-American vote.

The situation was particularly dire in Southern states. For example, in Dallas County, Alabama, although African-Americans comprised over 50 percent of the population, only 2 percent were registered to vote.

Six hundred patriots, led by the Dallas County Voters League, the Southern Christian Leadership Council, and the Student Nonviolent Coordinating Committee, SNCC, sought to march from Selma to Montgomery, a 54-mile journey along Route 80. However, their silent

journey came to an abrupt end at the Edmund Pettus Bridge, a mere six blocks into their march. Here these heroes were brutally assaulted by heavily armed state troopers and deputies.

That evening ABC interrupted the showing of Judgment at Nuremberg to play footage of the injustice and the travesty that took place that day on the Pettus Bridge.

Protests were held in 80 cities the next day, and a little over a week later President Johnson, before a joint session of Congress, asked that all Americans be given equal rights to participate in our democracy.

On Sunday, March 21st, about 3,200 marchers set out for Montgomery, walking 12 miles a day and sleeping in fields. And by the time they reached the capital on Thursday, March 25th, they were 25,000 strong. A few months later, in August, President Johnson signed the Voting Rights Act of 1965.

So where are we today? Where are the sacrifices that were made by so many those 30 years ago? We diminish the rights of communities through cracking, packing and stacking.

Islip is split. Hempstead is still cracked between four districts. Rochester is still split between three districts. Buffalo and Niagara are still split apart. Syracuse is split two ways. And in Erie County there was an effort to remove every African-American from the district in a process of separating two large African-American communities into Senate districts, diluting African-American voting strength.

The City of Rochester, which can easily be contained to one Senate district, is now split into three districts, represented by incumbents who all live outside the city.

As we represent the sacrifice of the heroes of the Bloody Sunday massacre, we must not allow their sacrifices to be in vain.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Parker.

Senator Libous.

SENATOR LIBOUS: Mr. President, before we adopt the Resolution Calendar, I believe Senator Breslin has a resolution on that calendar.

And, Senator, you want to open that up, Resolution Number 3729, to members?

SENATOR BRESLIN: Yes, thank you, Senator Libous. I request that it be opened up to all members and anyone not wishing to be on it notify the desk.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

SENATOR LIBOUS: Mr. President, could I now move the adoption of the Resolution Calendar.

ACTING PRESIDENT FLANAGAN: All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.

(No response.)

ACTING PRESIDENT FLANAGAN: The Resolution Calendar is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, before we move on, I want to take a moment to

recognize all the outstanding young people who have joined us in the chamber. They're brought to us here by the League of Women Voters, and I'm told that they have been here for a couple of days and will resume after session today.

They have been shadowing members of the Assembly and have been shadowing members of the Senate today.

And I just think, Mr. President, it is outstanding to see our young people here that care about government, they want to learn about government, they want to see how we function. And they can probably give us a few recommendations on how we might even be able to function better.

But I just want to welcome them all on behalf of Senator Skelos and both the Majority and Minority here and say that we hope you have a learning experience, it is a beneficial experience, and we really enjoy having you with us this afternoon.

(Applause.)

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: I believe that

Senator Young should be called on for the purposes of an announcement.

ACTING PRESIDENT FLANAGAN: Senator Young.

SENATOR YOUNG: Thank you, Mr. President.

Today is such a special day for me because, as you look up into the gallery, you see that it's filled with young people. Those young people are from my district. They're the tenth-, eleventh-, and twelfth-graders from Frewsburg Central School in Chautauqua County, right along the Pennsylvania border.

And they had to travel nearly six hours to get to Albany. As you know, I represent the far western region of New York State.

And I especially want to thank Mr. Nelson, who came today, but all the adult chaperones. Mr. Nelson actually teaches participation in government to the twelfth-graders, and I go to speak to their class whenever I can. And so I want to thank him, but also Shane Peterson, who is a senior this year and was a driving force -- he's a student, and he wanted to make sure that they had the opportunity

to come to Albany.

So I just wanted to say to them: Welcome. They've been on a tour, they've been to the State Museum. But there's no better way to learn about state government than to be here and experience it yourself.

So I just want to say to all the students what a great job you're doing. It's so wonderful to have you. I get very few classes because we are so far away, but I want to say to you I'm glad you could come, and keep up the great work.

(Applause.)

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe that Senator Farley has Resolution Number 3747 at the desk. Could we please read it in its entirety and then, before its adoption, call on Senator Farley.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 3747, by Senator Farley,

recognizing April 2012 as Child Abuse Prevention Month.

"WHEREAS, The State of New York takes great pride in participating in months of awareness of important issues; and

"WHEREAS, Court-Appointed Special Advocates (CASA) of Fulton and Montgomery Counties will commemorate Child Abuse Prevention Month during its Pinwheel for Prevention campaign, culminating with a Celebration of Children Showcase on May 11, 2012; and

"WHEREAS, The public cares deeply about child abuse, and a majority report that child abuse is a very important moral issue to them; and

"WHEREAS, Preventing child abuse and neglect is a community issue that depends on involvement of people throughout the community; and

"WHEREAS, Child abuse and neglect not only directly harm children but also increase the likelihood of long-term physical and mental health problems, alcohol and substance abuse, continued family violence and criminal behavior; and

"WHEREAS, Child maltreatment often occurs when people find themselves in stressful situations, without community resources, and don't know how to cope; and

"WHEREAS, The majority of child abuse cases stem from situations and conditions that are preventable in an engaged and supportive community; and

"WHEREAS, Child abuse and neglect can be reduced by making sure each family has the support they need in raising their children in a safe, nurturing environment; and

"WHEREAS, Effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to recognize April 2012 as Child Abuse Awareness Month; and be it further

"RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to the Court-Appointed Special Advocates (CASA) of

Fulton and Montgomery Counties."

ACTING PRESIDENT FLANAGAN: Senator Farley on the resolution.

SENATOR FARLEY: Thank you, Mr. President.

In the gallery with us today is Ladan Alomar, executive director of Centro Civico of Amsterdam, New York, which operates the Court-Appointed Special Advocates, CASA.

Ladan has been a leading advocate for children for many years. The prevention of child abuse and its causes, that has always been near and dear to her heart. Her extraordinary dedication has had a positive impact on the lives of countless children in our community.

The observance of Child Abuse Prevention Month will conclude with the celebration of the Children's Showcase on May 11th at the BOCES in Johnstown, New York, beginning at 3:00 p.m.

It is always vitally important to protect the safety of our residents, especially our children. I commend Ladan Alomar, Centro Civico, and CASA for their active role in raising awareness in the preventing of child

abuse and neglect.

And, Mr. President, I'd like you to recognize Ladan Alomar, who is in our gallery today. And thank you very much.

ACTING PRESIDENT FLANAGAN: The chair certainly recognizes Ms. Alomar.

Welcome.

(Applause.)

ACTING PRESIDENT FLANAGAN: Thank you, Senator Farley.

The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.

(No response.)

ACTING PRESIDENT FLANAGAN: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, Senator Farley would also like to open up that resolution up for cosponsors.

If anyone wishes not to be on the resolution, please let the desk know. Otherwise, all members will be on the resolution.

ACTING PRESIDENT FLANAGAN: So ordered, Senator Libous.

SENATOR LIBOUS: Mr. President, thank you.

I believe there's a resolution at the desk by Senator McDonald, Number 3701. Please have it read in its entirety and before its adoption call on Senator McDonald.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 3701, by Senator McDonald, memorializing Governor Andrew M. Cuomo to proclaim April 2012 as Autism Spectrum Disorders Awareness Month in the State of New York.

"WHEREAS, It is the sense of this Legislative Body to memorialize Governor Andrew M. Cuomo to proclaim April 2012 as Autism Spectrum Disorders Awareness Month in the State of New York; and

"WHEREAS, 'Autism Spectrum Disorders,' or ASDs, refers to neurobiological conditions including Autism, Asperger Syndrome, Rett's Syndrome, and other pervasive developmental disorders; and

"WHEREAS, ASDs, the third most common type of developmental disability in the United States, are afflictions occurring in children before the age of three, and are recognized by unresponsiveness to human contact, deficits in language development, and peculiar reactions to environmental stimuli; and

"WHEREAS, Affecting over 1.5 million Americans, the cause or causes of ASDs are unknown; and

"WHEREAS, One in every 110 children nationally are diagnosed with an ASD; and

"WHEREAS, ASDs know no racial, ethnic or social boundaries, and diagnoses are four times more prevalent in boys than girls; and

"WHEREAS, ASDs interfere with the normal development of children's reasoning, social interaction, and communication skills, causing those diagnosed to have difficulty relating to others; and

"WHEREAS, Over the past 30 years, significant progress has been made in the areas of research, medicine, diagnostics, and therapies for ASDs, resulting in improved quality of life for those with ASDs and their loved ones; and

"WHEREAS, It is in the interest of New York State to recognize the achievements made and to continue these efforts by promoting awareness and fostering understanding of ASDs; and

"WHEREAS, Autism Awareness Month has been recognized nationally since 1996; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor Andrew M. Cuomo to proclaim April 2012 as Autism Spectrum Disorders Awareness Month in the State of New York; and be it further

"RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to The Honorable Andrew M. Cuomo, Governor of the State of New York."

ACTING PRESIDENT FLANAGAN: Senator McDonald on the resolution.

SENATOR MCDONALD: Thank you, Mr. President.

And thank you for the resolutions before this that were all so important to the people of our community.

Thank you to each and every Senator

here and our colleagues in the Assembly and our Governor for making sure that on this particular issue that's relatively new in American society that we're getting ready and have already accomplished some very serious things like the autism insurance bill earlier this year. And we're getting ready to take on this issue.

All these young people sitting here, in your generations, if we don't do anything, you may be parents of people with autism or similar-type disabilities. If we don't do anything, that sadness will be with you for the rest of your lives and that child's life.

We're at a focal point, and that focal point is that one out of 90 people are being diagnosed with this terrible problem. We have to do something. And it's not unique; we have so many different issues we have to deal with. And that's the real reason we're here, is to help people.

So this is a chance for the young people to learn something very real in their personal lives. Inevitably, everybody's family gets impacted by some kind of health problem -- cancer, autism, abuses. So why are we a

society? Why are you here?

We can't do it by ourselves. People like myself and my family, we have to turn to extended family, if we have it; we have to turn to the good graces of the Lord and the good graces of our state and federal government and our local communities.

So this is not just a resolution, this is a challenge. And the challenge is this is why we're Americans, this is why we're human beings: To stick together, to care for these people who can't care for themselves. No matter what their problem is, way beyond autism, just to take care of our own people. And that's what we're here for.

So take that away when you go back to your schools, that these people in this house, the house down the hallway, and our Governor care.

So I want to thank you, as a person who's not only chairman of the New York State Senate Mental Health and Disabilities Committee but also the grandfather of two little boys, brothers, who are autistic, that, like all of our special people, are the highlight of our lives.

Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator McDonald.

Senator Fuschillo on the resolution.

SENATOR FUSCHILLO: Thank you very much, Mr. President.

Let me take this opportunity to thank Senator McDonald for his leadership.

This November 1st is a major step forward in New York State, when the insurance law takes effect that will for the first time provide insurance reimbursement for the diagnosis, treatment, and therapy of individuals living with autism.

And I want to thank Senator McDonald, especially his two boys, his grandchildren, who are autistic, who really put a face on the issue and how important it is for families to have this relief. Because they've been discriminated against for many, many years when insurance companies have denied them reimbursement. And they've had to live almost in poverty to provide the necessary treatment for their children who are growing older.

And as Senator McDonald said, the issue just doesn't rest with this insurance law, because there are many other issues that we have to deal with with families who have individuals, loved ones, with autism.

Today you'll notice, members, when you leave here and go back to the Legislative Office Building, there are quilts being displayed by Autism Speaks. And those quilts were made up by children. And I ask all of you to take time to go look at those quilts and look at the care and love that was given to that.

You know, April now being Autism Month really highlights the continued awareness and importance that we as a legislative body must do more to help these families, because they're getting older. And the biggest fear of parents is what's going to happen to my children when I'm no longer here. And we have that responsibility incumbent upon us to ensure that they're protected for the rest of their lives.

Thank you, Senator. Thank you for your leadership. I support the resolution.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Fuschillo.

Senator Farley on the resolution.

SENATOR FARLEY: Thank you, Mr. President.

Yes, I rise to salute my colleague Senator McDonald, who's been absolutely relentless on behalf of autism.

You know, it's one of the mysteries of our time right now that autism is an area that is growing. They don't know why, whether it's the environment or whatever it is. But it's so good to see the State of New York and the nation, for that matter, recognizing that autism is something that we have to address and attack.

And we have a leader in this state that, as I said, has been relentless on behalf of autism. And I salute you for that, Roy.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Farley.

Senator Rivera on the resolution.

SENATOR RIVERA: Thank you, Mr. President.

It was only yesterday, my colleagues, that I stood up to talk a little bit about my brother, José Manuel Rivera, Papotin. I just like the fact, by the way, that that's going

to be on the record forever, my brother's nickname.

And I wanted to just talk for a few minutes about my father. And back in the early 1970s when my brother was diagnosed for the first time, there were very few people knew much about autism. It has been 41 years since he was born, and in that period of time we've actually done a lot of work to determine the different levels at which somebody can be stricken with this disease and this condition.

And it is exactly times like this when we talk on the floor of the State Legislature about this issue -- whether declaring whether it be a week or a month, talking about establishing a task force on autism and adults with autism, as we did yesterday -- that I think that there is definitely a good reason why legislatures exist. We can do a lot to bring attention to this subject, to talk about how we've dealt with it over the years and every single day learn a little bit more about how best to address these concerns.

So today I stand up to join my voice to all my colleagues who have thanked

Senator McDonald for his leadership. Because it is part of our continuing to struggle to make sure these that these folks, we can recognize what their disease is, we can recognize the ways that we can help them so they can continue to be productive members of our communities.

And I mentioned my father because he actually did a lot of research on this issue back in the early '70s before it was really diagnosed. And if it wasn't for that work, my brother today wouldn't have graduated high school and college and wouldn't have a full-time job.

And it is my father who I think Senator McDonald is somebody that kind of reminds me of him, because it is his leadership and his -- because he always reminds us of this all the time about his grandsons. And it just reminds me a little bit of the work that my father did to make sure that my brother is where he is today.

So, Senator McDonald, again, I thank you for this resolution and for your continued leadership on this issue.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank

you, Senator Rivera.

Senator Parker on the resolution.

SENATOR PARKER: Thank you, Mr. President. On the resolution.

I'm actually rising to add my voice to the chorus of those who are thanking Senator McDonald for his leadership on the issue of autism spectrum disorders.

And I think that this resolution that declares April Autism Spectrum Disorders Awareness Month is really, really critical. Particularly because it's April, and so there's going to be a number of activities both nationally and around the state that address the issue of autism.

But April 1st, as you know, is the beginning of our fiscal year. And really the best thing that we could be doing in this chamber is, over the next couple of days as we pass the budget, making sure that we do the best that we possibly can in our budget to support families and people who are affected by autism spectrum disorders.

It's not one disorder, it's a number of them, and sometimes they're hard to

detect, as you heard Senator Fuschillo talk about the great impact this has on families. And certainly Senator Rivera understands that as well, that we need to really do far more than we have done, both in our budget and within the context of our state agencies, to support these families.

And so, again, I rise to celebrate this resolution but also recommit myself to work alongside the members of this chamber to make sure we're providing both more services and more support, both to the people, the organizations, but most importantly the families and individuals who are dealing with this every single day.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Parker.

Senator Duane on the resolution.

SENATOR DUANE: Thank you, Mr. President.

I just want to give a little bit of context of my interest and perhaps you might call it passion about this issue. When I was a teenager I volunteered for a CYO camp, a Brooklyn Diocese CYO camp for developmentally challenged children. And I in retrospect know that there

were also children who had autism, but it was not diagnosed. And the children in that camp were among the most lovable children I have ever met.

And, you know, later on my younger brother was to have a brain tumor which affected not just his -- you know, caused him to have a physical disability but also some mental health issues. And that happened in early adolescence. And sadly, he died in his mid-thirties from a second brain tumor.

But I truly believe that physical disabilities -- and many of you remember my ardent -- my passion for Timothy's Law and to try to reduce stigma around mental health challenges equal to physical health challenges.

And it was a true pleasure to work with Senator McDonald and Senator Fuschillo. And you're going to have to forgive me if I forget the others who worked on it. I'll name a couple more -- former Senator Craig Johnson, Senator Breslin. I was in the mix, proudly. And forgive me if I've left someone out who was involved in working on this issue.

And it was, I think, from my point of view one of the most wonderful -- one of the

most wonderful things that ever happened in the Senate in my time here.

And, you know, I was saddened when former Governor Paterson vetoed the bill that we did, but I'm happy that finally Governor Cuomo signed a bill that will really help families.

And, you know, there are many -- there's several things of which I'm proud to have worked on, and I know that the people who have worked on this, who worked on this issue have many things to be proud of. But I want you to know most sincerely that on my list of things that I'm proud that I worked on, this is it.

And I believe that the bill passed unanimously both times that we passed this bill, both parties unanimously. And I truly felt at both of those moments in time that we behaved like a real Senate, and we can always do that. And if we ever start to stray from how we really can operate, I encourage everyone to remember those two moments when we worked so well together.

And I again want to thank Senator McDonald because he shared his personal stories with us. And when people come and lobby

I always encourage them, when they see other Senators, to tell their personal stories. And the personal stories involved in this bill were enough to move each and every member of this Senate.

And a moment for us to be very proud. And thank you, Senator McDonald, and everyone who has been involved and passionate about this issue.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Duane.

Senator Huntley on the resolution.

SENATOR HUNTLEY: Thank you, Mr. President.

I would like to take this opportunity to commend Senator McDonald for the work that he does. I'm the ranker on his committee and I can tell you, no pun intended, but it's one of the best committees I've been on, with a person who I enjoy working with, a person who's warm and affectionate about what he does, about his family. And it's indeed been a pleasure just to be in the company of someone who is so very sincere.

And I just want to say to you it's been really a great pleasure, and I wish you and your family Godspeed.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Huntley.

Senator Kennedy on the resolution.

SENATOR KENNEDY: Yes, thank you, Mr. President.

It's been quite some time since we've spent so much time on a resolution -- rightfully so on this particular one.

Raising awareness and focus of autism, autism spectrum disorder, is incredibly important to this community, this great state. We all owe you, Senator McDonald, a tremendous debt of gratitude as individuals, as representatives of respective districts, but also as family members and as just members of this great community and this great state, to your leadership on this all-important issue.

Myself, I've had the opportunity as an occupational therapist to work with families of individuals and most importantly to work with individuals with all sorts of disabilities in their background. Some of the greatest

individuals that I've worked with have been individuals who have the autism spectrum disorder.

This state, this great state, having last year, with your leadership, Senator McDonald, taken such a tremendous step in the right direction to help these families that are impacted on a daily basis of this disorder is -- again, we all owe you a debt of gratitude.

We look forward this month as we recognize this disease and this disorder in these chambers to work with you to further the awareness and the impact that state legislation, driven through your committee, can have on families all across New York State.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Kennedy.

Senator Stewart-Cousins on the resolution.

SENATOR STEWART-COUSINS: Thank you, Mr. President.

I rise too, and certainly extend my gratitude to Senator McDonald. But also, as I look around, I see so many young people here

today. They're shadowing many of us as legislators. I know that my own shadowers, Marialisa and Sam, are behind me.

But I thought it was important, since you're here, that we're asking the Governor and we're all acknowledging how important this issue is -- and I know probably each and every one of you are in touch or know someone who also has autism. So while you watch what happens today, understand that it's not all the time that we discuss issues that everybody knows a little about. Autism is one of those issues.

So as you watch, as you shadow, remember the discussion. Remember that in this Legislature, in this body, we talked about things that we as government can do -- not only passing legislation and resolutions, but raising awareness.

And all of you who are here are part of that effort to raise awareness. Because together, everywhere that we go, we can make it better for someone.

So again, welcome. And again, thank you, Senator McDonald, for what you've done.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Stewart-Cousins.

The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FLANAGAN: Opposed, nay.

(No response.)

ACTING PRESIDENT FLANAGAN: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, Senator McDonald would also open this resolution to all members. If there's any member that wishes not to be a cosponsor, please advise the desk.

ACTING PRESIDENT FLANAGAN: Any Senator wishing not to be a cosponsor of this resolution please notify the desk.

Senator Libous.

SENATOR LIBOUS: There's a resolution by Senator Duane, Number 3716, at the desk. Can we read its title, call on Senator Duane, and move for its adoption.

ACTING PRESIDENT FLANAGAN: The

Secretary will read.

THE SECRETARY: Legislative Resolution 3716, by Senator Duane, commemorating the 101st Anniversary of the Triangle Shirtwaist Factory Fire on March 25, 2012.

ACTING PRESIDENT FLANAGAN: Senator Duane on the resolution.

SENATOR DUANE: Thank you, Mr. President.

Today, as we do every year, the Senate honors the memories of the workers killed in the Triangle Shirtwaist Factory Fire. The resolution -- which I encourage everyone to read, because it gives us the awful details of that day when 146 people, including former Senator Serph Maltese's grandmother and two of his aunts, were killed in that Triangle Shirtwaist Factory. And they were horrible and -- horrible deaths.

And instead of repeating the chronology of events, I do want to talk about the idea of the Triangle Fire as what's referred to as an industrial accident.

And that's actually an incorrect description. To say that 146 people died because of a fire in a wastebasket, it's like saying

World War I was about an archduke being fired at Sarajevo. It doesn't tell the whole story. And this -- because this -- what happened that day was not an accident. It was because of the policies that were in place at the time.

So we remember and we mourn the victims. And we also have to remember the perpetrators. Not as individual factory owners, but, you know, let's look at our history and the social and economic and political culture that at that time really were responsible for these literally crimes against the lives and dignity of working people, including Senator Maltese's family.

And even at the same time as the Triangle Fire, it's estimated that over 100 Americans died in the workplace every day. One hundred people died in the workplace every day. And so the Triangle Fire isn't an isolated incident, it was just a more egregious version. And it's a version of something that happened in factories and towns and textile mills and slaughterhouses and coal mines across the country. You can read about in The Jungle, by Upton Sinclair.

And two years after the Triangle Fire, 31 people were killed in the Binghamton Clothing Company, when a fire broke out in the Wall Street building where it was housed and the deputy marshal reported that a lack of fire escapes contributed to the death toll. And events like these were horrible and were commonplace.

And I encourage my colleagues and visitors not to forget how difficult the struggle was to win the workplace safety rules that we take for granted today. In 1909, shirtwaist workers citywide, they walked out in a demand for better pay and working conditions, but they were ignored by the Triangle management.

And after the fire, the factory owners' insurance company reimbursed them $60,000 more than their estimated losses. They were then cleared of all criminal charges and paid out $75 per victim in a civil suit. In other words, the factory owners who ignored demands for reform, the factory owners who had locked their employees in to die turned a $50,000 profit thanks to the legal and political systems of their day.

That was the world in 1911. And

progress only came through the long-term efforts of organized labor -- and we need to remember that more than ever today -- and public disgust at such terrifying working conditions, which we must educate young people about because it is not talked about, it's not a big enough part of history books.

And progress came through political will. And I met one of my colleagues here because of her union activism, and together we created an amazing bill when I was in the New York City Council that to this day is a model of progress for hardworking people in New York City.

You know, one of the things that happened because of the horrible tragedy of that fire was that the Legislature, and really responding to public pressure -- so public pressure. Pressure us, keep pressuring us. And that was what caused the overhauling of our state's fire code, evacuation rules, and sanitary requirements.

And New York's own Robert Wagner would go on to author the landmark National Labor Relations Act, and Governor Franklin Roosevelt

appointed Frances Perkins -- a former senator -- as Labor Secretary. That's Ms. Frances Perkins. Oh, FDR was a senator. Yeah, I didn't think Frances Perkins was. I was like, I didn't remember that from the -- yes, FDR, he sat right over there. Right over there. And smoked. Which he shouldn't have. Anyway. But Frances Perkins, a New Yorker, was appointed FDR's Labor Secretary.

But, you know, over and over at that time there were patterns of industrial accidents. And they weren't accidents. And the victims tend to be marginalized, whether they were 16-year-old Russian Jewish girls in New York or first-generation Italians who made up the bulk of the victims at Monongah. And over and over, cries for reform and resistance by the industries, and eventual progress as society and government came to recognize the brutality of how we treated our own people.

By 1970 it was estimated that 40 Americans died each day in the workplace. Today it is approximately 14. But we need to do everything we can to make that zero. So we have come a long way, but we have more to do.

And institutions like OSHA, health regulations, safety regulations -- whether in textiles or factories or food processing -- have changed the way Americans work and live, but they have not been bought cheaply. There are still people who make our clothes, pick our produce, and assemble our electronics working in conditions much like the Triangle Factory Fire.

And some of this happens at home, as we learn that 25 people were killed in a fire in a chicken plant in North Carolina, having been locked in their factory 80 years after the Triangle Fire.

And much of it occurs overseas when people are murdered in, oh, so many countries -- Colombia, Guatemala -- for organizing unions. For organizing unions. And Chinese workers have stood up to their own government, demanding the same rights as the young women demanded after the Triangle Fire, the same rights that Martin Luther King demanded for Memphis sanitation workers after two were crushed and killed by a sanitation truck malfunction that was not operating safely.

So what stands between us and the society of 20 years ago in North Carolina,

50 years ago in Memphis, 100 years ago at 23 Washington Place in Greenwich Village is the response of organized labor and social movements. It's what Rose Schneiderman of the Women's Trade Union League demanded when she wrote that it was up to the working people to save themselves. And it is what we must continue to do going forward, working with working people. And we have to do it for the descendants of the victims of the Triangle Factory Fire.

I want to quote Fannia Cohn, one of the leaders of the International Ladies Garment Workers Union. After the event, she wrote: "The best memorial for our martyrs of the Triangle Fire is a resolve to continue our efforts to have the workers more strongly united in the economic and political fields, coupled with a workers' education movement that would help to create a new environment lending itself to fundamental political, social, and economic changes."

She was with the ILGWU. Another garment workers' union, the Amalgamated Clothing and Textile Workers, incredibly important to the history of Rochester.

You know, almost every newspaper in

the country has a business section. Why isn't there a section in every newspaper that talks about what happens to the workers who make it possible for those businesses to have that profit?

So I challenge me, I challenge us: Our work is not done. This is not a one-day, oh -- this is a day where we have to recommit ourselves. I think this is something that we need to recommit ourselves to every day because future societies will judge us on what we do for working people today.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Parker.

SENATOR PARKER: Thank you, Mr. President. On the resolution.

Let me begin by thanking Senator Duane for his explanation of the Triangle Shirtwaist Factory Fire and the historical significance of its 101st anniversary. I actually carried a similar resolution the last couple of years.

This is really a critical resolution because it really did create the

atmosphere and really was the tipping point of making sure that worker safety was improved not just in New York City but really throughout the country.

And we certainly, you know -- obviously I want to honor the family of one of our former colleagues, Serph Maltese, and his family members that were lost in this fire.

I think that part of what Senator Duane tried to cushion us from was the horrific nature of those 146 people who lost their lives that day. These were poor working-class people. And not working class in like firemen, policemen, teachers. We're talking about like immigrant working class. Like, you know, people who were really at the lowest rung of the economic ladder and still working really for cents.

And the reason why so many people died in this fire is that they were literally sealed in the place. Making shirts, right? And literally locked in. And they literally couldn't get out. And people were literally -- you know, many of the people, many got burned up. Many jumped to their death instead of burning up in the building.

So this really was a horrific act. It's really something that we need to remember. I have a bill, Senate Bill 1819, that actually creates a centennial commission on the Triangle Shirtwaist Factory Fire that I am asking Senator Skelos to bring to the floor and let's pass it again. We passed it in 2010. And we can pass this bill and get this commission going.

It would certainly, one, from a historical perspective, create the commission that would commemorate this event so that we -- you know, as they say about history, those who fail to learn the lessons of history are doomed to repeat them. So we certainly want to commemorate them.

But it also is a commission that would help us look forward as we continue to look for ways to improve working conditions for working people throughout the State of New York.

And certainly what my recommendation was to my colleagues was that we pass the bill, create the commission, and the Senate appointment structure should be former Senator Serph Maltese, who I think would certainly be a good addition to that.

So Senate Bill 1819, if you didn't get that the first time, Senator Libous, if we can get that to the floor and pass it, I think it would be a great addition to the work that we're currently doing here in the State Senate.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President.

Let me just amplify some of the comments that have been made. First of all, 146 people died. And think about it: 129 were women. Many were children; in fact, as young as 12 years old. Most of the people who died I believe were under the age of 26, I think, or 27.

Why did they die? Because the owner of the factory locked the doors. They couldn't get out. They locked the stairwells, they locked the exits. They could not get out.

And what happened as a result? Well, right after that they had a funeral procession, 100,000 people marched in New York City, in Manhattan, at the funeral procession to commemorate the horrific incident.

But after that, as Senator Duane said, this gave the International Ladies Garment Workers Union -- which was a relatively new union in 1911. They had been founded in 1900. And that gave them the impetus to organize and to demand better working conditions.

But the significance I think is not just to remember history, but to prevent this sort of situation from happening again. And unfortunately, we have sweatshops that exist today. We've got to make sure that we do not patronize those sweatshops. They're dangerous. They employ people who belong in school.

And I thank Senator Duane and Senator Parker for their comments. But let us also remember the relatives, the descendants of the fire. I know how important this was to Senator Maltese, and I certainly hope that we continue the tradition of remembering our history.

Thank you very much.

ACTING PRESIDENT GRIFFO: Senator Savino.

SENATOR SAVINO: Thank you, Mr. President.

I also want to rise and thank Senator Duane for bringing this resolution and for his very eloquent words about what this means.

And we all know how important this issue was to Senator Maltese, not just because he was personally affected by it, as a family member was lost, but also as a leader in the Italian-American community.

What happened in the Triangle Shirtwaist Factory was a tragedy. And as we heard Senator Duane and Senator Parker and Senator Stavisky talk about the shockingness of the idea of 146 women being locked in a factory and being terrified and being forced to jump out the window rather than burn to death.

And we hear about the efforts that came after that from Robert Wagner, who went on to pen the National Labor Relations Act, the Wagner Act, which grants workers the right to join together to fight these types of conditions.

And we reflect that in the last 100 years the likelihood of American workers dying in factories that way has diminished

considerably. We haven't exactly eradicated it.

But I think what's even more important is that we should stop and think today, as we commemorate the Triangle Shirtwaist Factory Fire, and we are happy that American workers no longer toil under those types of conditions -- unless they're not caught at it. But I would think every one of us might want to take off their jacket or look inside the label of their clothes and see where the clothing that you are wearing today was made.

The likelihood is it was made in China or Vietnam or Bangladesh or somewhere else in the world where the conditions that existed in the Triangle Shirtwaist Factory are not an anomaly, they are not an exception, they are the rule.

So while we reflect on the advances of workers in the United States and we look at the history of the Triangle Shirtwaist Factory and we say "never again here," maybe it's time we start saying "never again there" as well.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor

signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time could we have the reading of the noncontroversial calendar, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

SENATOR DUANE: Mr. President, I would like to offer the opportunity for everyone to sign on.

SENATOR LIBOUS: Absolutely.

Senator Duane would like -- all members will be put on the resolution. And if there are any members who wish to be taken off, to let the desk know.

ACTING PRESIDENT GRIFFO: So noted.

SENATOR LIBOUS: Thank you,

Senator Duane.

Reading of the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 409, by Senator Fuschillo, Senate Print 6715, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 410, by Senator Fuschillo, Senate Print 6723, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 413, by Senator Robach --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: Calendar Number 442, by Senator Zeldin, Senate Print 3844B, an act to amend Chapter 397 of the Laws of 1996.

ACTING PRESIDENT GRIFFO: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays,

1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 444, by Senator Young, Senate Print 4359, an act to amend the General Municipal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 446, by Senator Zeldin, Senate Print 6193, an act in relation to authorizing.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Bonacic and Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 447, by Senator Marcellino, Senate Print 6363, an act to amend Chapter 226 of the Laws of 2003.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Ball and Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 449, by Member of the Assembly Magnarelli, Assembly Print Number 9336, an act to amend the

County Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Just to explain my vote.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: This is an important bill for Central New York. And it basically authorizes Onondaga County to collaborate with other counties in Central New York to operate and maintain a foreign trade zone, which is extremely important to work together, for counties to work together, in this

case the counties of Onondaga, Cayuga, Oswego and Madison, in order to bring business in the state.

And I would urge everyone to vote yes on this. I'm not quite sure where the opposition could come from. Because it helps Central New York and it helps create jobs in New York State.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 449: Ayes, 59. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous, that completes the noncontroversial reading of the calendar.

SENATOR LIBOUS: Thank you, Mr. President.

Could we now go to the controversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 413, by Senator Robach, Senate Print 702A, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: An explanation has been requested by Senator Krueger.

Senator Breslin, why do you rise?

SENATOR BRESLIN: Mr. President, I believe there's an amendment at the desk. I ask that the reading of the amendment be waived and that Senator Krueger be allowed to speak on the amendment.

ACTING PRESIDENT GRIFFO: Senator Krueger, you are waiving, then, the request for the explanation?

SENATOR KRUEGER: No, let's do the hostile first.

ACTING PRESIDENT GRIFFO: Okay. Senator Breslin, there is an amendment at the desk.

Senator Breslin, I have reviewed the amendment and ruled that it is not germane to the bill and therefore out of order.

SENATOR BRESLIN: Yes, Mr. President, I would appeal the decision of the

chair and request that Senator Krueger be heard on that appeal.

ACTING PRESIDENT GRIFFO: Senator Krueger, you may be heard.

The question is on the appeal of the ruling of the chair, and Senator Krueger now will be heard on that.

SENATOR KRUEGER: Thank you very much. I am appealing the ruling of the chair.

My amendment to Senator Robach's bill is clearly germane to the bill. The amendment deals with the same subject matter as the underlying bill in the following respects.

Both Senator Robach's bill and the provisions of my amendment propose a new section, 145.24, of the Penal Law. Senator Robach's bill creates the new crime of environmental damage to property with a new section, 145.24, of the Penal Law, and my amendment provides the detail for particular types of violations under the same new section.

The amendment neither unreasonably expands the object or subject of the underlying bill, nor does it change the purpose, scope, or object of the original bill.

The purpose and scope of the bill, as amended as I propose, would remain to hold those who do environmental damage to property criminally liable for their actions.

Had the bill been originally introduced as I propose it now to be amended, it would still have required consideration by the same standing committee that reported the underlying bill. My amendments simply expand the details of Senator Robach's bill to allow specific types of environmental damage to fall under both the penal code and also civil code.

It is for these reasons that I am offering the amendment today. I do believe it is germane. And I think it's particularly important that we recognize that there are -- excuse me, Mr. President.

It is critical to understand that Senator Robach's bill and my amendments both would work to ensure that there are penalties for any person who intentionally takes action which does irreparable harm to the water supply and make clear that any natural gas driller who intentionally discharges hydraulic fracturing compounds into the state's water supply or

knowingly covers up a prohibited discharge is in fact violating environmental law.

It provides for strict liability for any person who undertakes the activities of hydraulic fracturing or transportation of waste chemicals and products, provides for treble damages when such actions result in personal injury or wrongful death, property damage, reduction in property value, reduction in business value, loss of profits and all other damages caused by such activities.

Finally, my amendment, as germane to Senator Robach's bill, would remove any doubt that municipalities have standing to pursue such claims for damages resulting from the exploration, drilling and extraction of natural gas, including high-volume hydraulic fracturing, or hydrofracking.

It is for these reasons that I believe my amendment is germane, and I would very much like a vote on the actual amendment.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger. You have been heard on your appeal.

The question now is on the appeal of overruling the chair. All those in favor of overruling the chair signify by saying aye.

SENATOR BRESLIN: Mr. President, can we have a show of hands.

ACTING PRESIDENT GRIFFO: Senator Breslin has requested a show of hands. So ordered.

(Senators raised their hands.)

ACTING PRESIDENT GRIFFO: The Secretary will announce the results.

THE SECRETARY: Ayes, 24.

ACTING PRESIDENT GRIFFO: The ruling of the chair is sustained.

Read the last section.

Senator Krueger.

SENATOR KRUEGER: Now if I could ask for an explanation of the bill.

ACTING PRESIDENT GRIFFO: An explanation has been requested, Senator Robach, by Senator Krueger.

SENATOR ROBACH: Yes, Mr. President.

This bill would create the crime of environmental damage of property, which is

committed when one, in the furtherance of the commission of another felony, intentionally or recklessly causes property damage that alters, contaminates or destroys the quality of water, soil or air in a remediation amount of more than $100,000. Environmental damage of property could then be an additional Class C felony.

And let me further explain. The genesis of this bill came from an actual incident which happened in my district where an RGE plant -- Rochester Gas & Electric, our main provider of energy -- some criminals, for lack of a better term, broke into the power plant facility, wanted to get the copper out of a surplus transformer and, to get about $500 of copper, put 4800 gallons of oil into the tributaries, ponds, and eventually into Lake Ontario, causing a million dollars to the ratepayers and the Department of Environmental Conservation to clean that up.

After working with people who were shocked at this outcome and also even more surprised to find out there really wasn't too much that could be done about the environmental damage side, I put this bill in place.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President. If the sponsor could yield to a question or two.

ACTING PRESIDENT GRIFFO: Sponsor, will you yield?

SENATOR ROBACH: I enthusiastically yield.

SENATOR KRUEGER: Well, I enthusiastically ask. Thank you, Mr. Sponsor and Mr. President.

So I just attempted to offer amendments to your bill that in fact we did not have an opportunity to vote on. But I actually think that the concerns I was raising could and would be addressed by your bill if it became law.

So I'd like to propose a hypothetical and ask the sponsor whether he thinks his law would in fact apply in that situation. Let's say I was the owner of a -- I'm sorry, Mr. President, I want to make sure the sponsor can hear me.

ACTING PRESIDENT GRIFFO: Senator

Krueger, are you posing a hypothetical or a hypothetical question? Because --

SENATOR KRUEGER: Well, I'm giving a hypothetical example and I'm asking it as a question of the sponsor. Thank you.

But he was speaking to someone else; I wanted to make sure he had a chance to listen. Thank you.

So let's say I was operating a hydraulic drilling site, hydrofracturing at a drilling site in New York, and I know that I'm supposed to remove, under the hypothetical permit, remove the wastewater from the drilling site to an appropriate wastewater decontamination site of some sort, but I decide that I don't really want to spend the money to do that and so I tell my employee to go dump it in a lake instead of taking it to a wastewater facility.

Over the course of the trip to the lake or river or pond, with the dangerous waste chemicals being illegally transported to this lake, river or pond, there is an accident. And because these products are actually -- they're flammable, and so the vehicle blows up, the worker is killed, the environmental damage is

done --

SENATOR LIBOUS: Mr. President, just a point of order.

ACTING PRESIDENT GRIFFO: Senator Libous, why do you rise?

SENATOR LIBOUS: Is Senator Krueger asking the sponsor a question or is she telling us a story, a hypothetical story of something that may happen?

ACTING PRESIDENT GRIFFO: I have asked Senator Krueger -- Senator Robach did yield for a question, as you had requested. You now appear to be discussing the bill in some format.

SENATOR KRUEGER: No. No, I'm not discussing the bill, Mr. President.

ACTING PRESIDENT GRIFFO: So would you please direct a question to Senator Robach?

SENATOR KRUEGER: Certainly.

Through you, Mr. President, my question is does Senator Robach believe his bill would apply in a situation where someone who was involved in hydraulic fracturing chose to send their wastewater to an illegal dumping site, there was a tragic accident on the way to the illegal dumping site, and there was an additional

felony that took place, perhaps because of the blowing up of the vehicle in addition to the environmental dosage?

ACTING PRESIDENT GRIFFO: Senator Krueger -- Senator Krueger --

SENATOR KRUEGER: Would that be -- excuse me.

ACTING PRESIDENT GRIFFO: What is your question?

SENATOR KRUEGER: Would your bill in fact apply in that circumstance?

SENATOR ROBACH: My answer will be much, much shorter than the question.

As I stated in the beginning of this, if it was done in the commission of another felony, that would apply regardless of what the activity was, if it damaged the environment on any topic.

SENATOR KRUEGER: Mr. President, through you, I think I will speak on the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: So I thank the sponsor for his answer. Because while it was a hypothetical question, it was a very real

possibility, and he answered yes, that his bill could apply.

And in fact you can find in case law in the State of New York any number of circumstances where that's already taken place. Not necessarily with hydraulic fracturing, because we don't actually allow that yet in our state, but through any number of other environmental accidents or intentional accidents.

I'll cite People of the State of New York v. Roth, an Onondaga County case from 1992, where the employee was cleaning a truck trailer and he died when petroleum vapors exploded. The defendants, charged with manslaughter and negligent homicide, were a petroleum transport company, the district manager and the operations manager of the facility where the deceased worker worked from.

The court affirmed dismissal of the charges, finding the evidence presented was insufficient to show the foreseeability of the death, but they did establish that the question of causation in law and environmental damage was real.

Unfortunately, we didn't have the right law in New York State to address this. I believe with Senator Robach's law we might in fact have the correct statute.

In the People of the State of New York versus Polvino, also Onondaga County, the defendants knew the proper way to dispose of corrosive and hazardous chemicals that were on their property. Evidence showed, however, that the defendant did not follow such correct procedures in removal of the hazardous chemicals and instead hired another man to haul the barrels away. The contents spilled, the hauler died at the scene, caused by lung damage from the spill. There was environmental damage in addition to the felony of the man dying.

The court found evidence of foreseeability was sufficient to allow the case of the criminal charge of the worker dying but not necessarily of the violation of environmental law.

I believe Senator Robach's law would allow us to go after this type of circumstance, whether it's moving corrosive and hazardous chemicals from a drilling site or from

some other site, under our law.

Under the People of the State of New York versus Macellaro, 1987, Westchester County, the court allowed a reckless endangerment prosecution where evidence showed that the defendant illegally dumped 35-gallon drums on the side of a roadway rather than correctly removing the hazardous chemicals.

One drum was leaking, and when the defendant attempted to remove the hazardous warning label in order to leave the drums by burning off the hazardous warning label with a lighter, the substance ignited instead, causing enormous environmental damage.

So in fact there also there was the criminal activity of illegally attempting to dump chemicals. The harm done by the ignition or explosion of the chemicals when someone was trying to hide the fact that they were violating the law, but not a clear statute on penal -- excuse me, criminal sanctions, criminal penalties for violations of our environment.

So in fact I believe that Senator Robach's bill is an important bill. I think it could have been strengthened with the amendments

that I proposed, which included sections of a law I carry, sections of a bill Senator Duane carries, and sections of a bill that Senator Greg Ball carries.

So I am happy to support Senator Robach's bill today. I hope it becomes law. But I think it could become an even better law if we were to seriously look at making the amendments to his law that we've recommended today.

And so I'm hoping Senator Robach might want to work with me in the future to make his what I believe good bill even better law.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

Hearing none, debate is closed. The Secretary will ring the bell.

Can we have some order, please, in the chamber.

The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Robach to explain his vote.

SENATOR ROBACH: Yes, Mr. President, very quickly.

I would just encourage folks to support this. This really is a win for all of our constituents in two ways.

The first way, it can deter contamination, environmentally dangerous exposure.

And secondly, it really, I think, can help people. In the case that I gave you, what happened in my district, it will also protect people from either having to pay through their taxes when the Department of Environmental Conservation is responsible for these types of activities, where they have to clean it up, or, in the case in my district where Rochester Gas & Electric, the utility, had to clean it up, that cost then goes out to the ratepayers.

So we can do two good things today by passing this bill: Deter that type of environmental crime in the commission of other felonies and also at the same time hopefully --

ACTING PRESIDENT GRIFFO: Excuse me. I ask for order in the chamber, please.

Senator Robach, please continue.

SENATOR ROBACH: -- and hopefully reduce the chances of increased risk in this type of environmental damage.

And I would just encourage people to support that on behalf of all of our constituents.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Robach to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 413, those recorded in the negative are Senators Duane and Parker.

Ayes, 58. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous, that completes the controversial reading of the calendar.

SENATOR LIBOUS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT GRIFFO: There is

none.

SENATOR LIBOUS: Thank you, Mr. President.

There being no further business, I move that the Senate adjourn until Wednesday, March 28th, at 11:00 a.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Wednesday, March 28th, at 11:00 a.m.

Senate adjourned.

(Whereupon, at 4:34 p.m., the Senate adjourned.)